

(2018) 08 CAT CK 0029

In the Central Administrative Tribunal

Case No : Original Application No. 100, 207 Of 2016

Ganga Dev

APPELLANT

Vs

Commissioner Of Income Tax And Ors

RESPONDENT

Date of Decision : 27-08-2018

Acts Referred:

Administrative Tribunals Act, 1985 — Section 3(q)(v), 19

Public Premises (Eviction Of Unauthorized Occupants) Act, 1971 — Section 4(1)

Citation : (2018) 08 CAT CK 0029

Hon'ble Judges : Ashish Kalia, J

Bench : Single Bench

Advocate : M.K. Bhardwaj, Gyanendra Singh

Final Decision : Dismissed

Judgement

1. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, being aggrieved by the impugned order dated 23.12.2015 (Annexure A-1), whereby he has been directed to surrender his residence being H.No.335, Income Tax Colony, Pitampura, New Delhi, originally allotted in the name of his father.

2. Brief facts of the case are that the father of the applicant was working as MTS in the pay scale of Rs.5200-20200 with respondent no.1. On 8.09.2000, flat no.335, Type II, Pitam Pura, New Delhi was allotted in his name. Unfortunately, on 29.04.2006, the father of the applicant expired. On 5.02.2007, respondent no.1 granted permission in favour of the applicant's mother to retain the flat in question till 30.04.2007 after making the payment of requisite charges of Rs.2052/-. The same had been deposited. The name of the applicant was considered by the departmental committee and his appointment on compassionate grounds was approved on 27.05.2009. Thereafter on 17.06.2011, respondent no.3 herein issued notice under Section 4 (1) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (PP Act), asking the applicant to show cause as to why an order of eviction should not be passed against him and

his family members for their eviction from the flat in question. The applicant has duly replied to the said show cause notice dated 17.06.2011.

3. The applicant is seeking regularization of the aforesaid quarter in his name, which was allotted to his deceased father.

4. Notice was issued and respondents put in appearance. They have filed their reply. Basic objection raised by the respondents is that the Tribunal does not have jurisdiction to stay proceedings under PP Act.

5. Learned counsel for the applicant, on the other hand, submits that the applicant is seeking regularization of the aforementioned flat, which is very well covered under the subject of service matters.

6. Heard the learned counsel for the parties at length and perused the record.

7. If a glance is made to the relief prayed for by the applicant herein, it is impugning the proceedings under Section 4 (1) of the PP Act. This Tribunal, after considering the rival contentions, is of the view that as per Section 9 of the aforesaid Act, proceedings lie before District Judge and not before the Tribunal. The Tribunal lacks jurisdiction in this matter, is further strengthened by the ratio laid down in Union of India Vs. Sh. Rasila Ram & Ors, JT 2000 (10) SC 505, where the Hon'ble Supreme held as follows:

"2. The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the "Eviction Act") was enacted for eviction of unauthorised occupants from public premises. To attract the said provisions, it must be held that the premises was a public premises, as defined under the said Act, and the occupants must be held unauthorised occupants, as defined under the said Act. Once, a Government servant is held to be in occupation of a public premises as an unauthorised occupant within the meaning of Eviction Act, and appropriate orders are passed thereunder, the remedy to such occupants lies, as provided under the said Act. By no stretch of imagination the expression, "any other matter," in Section 3(q)(v) of the Administrative Act would confer jurisdiction on the Tribunal to go into the legality of the order passed by the competent authority under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. In this view of the matter, the impugned assumption of jurisdiction by the Tribunal, over an order passed by the competent authority under the Eviction Act, must be held to be invalid and without jurisdiction....." (emphasis supplied)

8. In view of above, since this Tribunal does not have jurisdiction to entertain this OA, it is dismissed.